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(D. C. 1916) 236 Fed. 604. The instant case rightly follows this decision. The plaintiff has other adequate remedies; the defendant is in no way responsible for the wrongful collection, and it would be great injustice to make him personally liable, as would result were a judgment taken against him.

TRIALS—EXTENDED EXAMINATION BY THE JUDGE.—In the course of a jury trial, the judge examined the defendant at great length. The jury rendered a verdict for the plaintiff. The defendant contends that the extended examination by the trial judge was error. *Held,* a new trial should be ordered since the extended examination must have prejudiced the minds of the jury. *David & Co.* v. *Ginsberg* (Sup. Ct. App. T. 1921) 188 N. Y. Supp. 72.

Examination by the trial judge which indicates that he disbelieves the witness is reversible error because the court influences the jury in determining the credit to be given to the witness. *Barlow* v. *Parsons* (1901) 73 Conn. 696, 49 Atl. 205; *Hudson* v. *Hudson* (1892) 90 Ga. 581, 16 S. E. 349. There is no reversible error merely in the improper examination of a witness when the verdict shows no prejudice has resulted. *Knox* v. *Fuller* (1900) 23 Wash. 34, 62 Pac. 131. An examination which is conducted in such a fashion that it indicates that the judge is on the side of one party is ground for reversal. *Bolte* v. *Third Ave. R. R.* (1899) 38 App. Div. 234, 56 N. Y. Supp. 1038. But the instant case goes further and says that the mere extended examination gives rise to prejudice. It seems difficult to sustain such a position, for if the questions asked by the judge are proper and do not indicate his views on the issue, it is impossible to see how either side can have been prejudiced. The better view seems to be that mere active questioning by the trial judge is not a ground for a new trial. *Bauer* v. *Beall* (1890) 14 Colo. 317, 23 Pac. 345. Not the length but the character of the examination is its objectionable feature.

USURY—EQUITABLE RELIEF—PAYMENT OR TENDER OF AMOUNT DUE.—A Rhode Island usury statute made a violation punishable as a misdemeanor and gave the borrower an action at law to recover any portion of the principal or interest paid upon an usurious contract. The plaintiff filed a bill in equity for the cancellation and surrender of a note made by him to the defendant for money loaned at an usurious rate of interest. *Held, inter alia,* the plaintiff must tender the principal of the loan, with legal interest, before equity will grant relief. *Moncrief* v. *Palmer* (R. I. 1921) 114 Atl. 181.

Usurious contracts are void by statute and so are unenforceable at law. Equity likewise recognizes their invalidity and denies relief to a lender who seeks enforcement of an usurious obligation, irrespective of repayment by the borrower. *Union Bank* v. *Bell* (1862) 14 Ohio St. 200. But where the borrower asks affirmative relief he must first pay or tender the loan with legal interest. *Fanning* v. *Dunham* (N. Y. 1821) 5 Johns. Ch. 122. This rule is based on the maxim that "he who seeks equity must do equity." See *Ballinger* v. *Edwards* (1847) 39 N. C. 449, 452. For in the view of the equity court it would be against conscience that the borrower should have relief and at the same time pocket the money loaned. The rule has been abrogated by statute in some states. N. Y. Cons. Laws (1909) c. 25, § 377. Where the loan has been repaid with legal interest, the borrower may replevy the instrument evidencing the indebtedness. *Griswold* v. *Dugane* (1910) 148 Iowa 504, 127 N. W. 664. Since this is an adequate legal remedy it would seem on strict grounds that in such a case equity should have no jurisdiction. Under the ordinary usury statute, where the borrower cannot recover money he has repaid, the practice followed in the instant case seems sound. But where, as in Rhode Island he can recover back at law any repayment he has made, the decision is directly con-

trary to the policy of the statute. For *quaere*—could the plaintiff in the instant case recover back at law the money he is ordered to pay by the equity court as a condition to equitable relief?

WILLS—ADOPTED CHILDREN—REVOCATION.—The testator adopted two minor children seventeen years after making a will giving his entire estate to his widow. In the distribution proceedings the adopted children claimed the right to participate in the estate. *Held,* the children have no right in the estate. *In re Boyd's Estate* (Pa. 1921) 113 Atl. 691.

At common law a will is revoked by marriage and the subsequent birth of a child. *Baldwin* v. *Spriggs* (1886) 65 Md. 373, 5 Atl. 295. This has been extended by statute in most jurisdictions so that the birth of a child alone is sufficient to revoke the will to the extent that the child inherits as if there were no will. Pa. Stat. (1920) § 8333; *Gillespie* v. *Truka* (1919) 104 Neb. 115, 175 N. W. 883; but *cf. Irving et al.* v. *Irving* (Ga. 1921) 108 S. E. 540 (illegitimate child). At common law adoption was unknown and statutes permitting it, being in derogation thereof, are generally strictly construed. *Cf. Matter of Cozza* (1912) 163 Cal. 514, 126 Pac. 161; *Matter of Ziegler* (N. Y. 1913) 82 Misc. 346, 143 N. Y. Supp. 562, *aff'd* (1914) 161 App. Div. 589, 146 N. Y. Supp. 881; *contra, Boaz* v. *Swinney* (1908) 79 Kan. 332, 99 Pac 621. In Pennsylvania, by the Intestate Act an adopted child is expressly declared a member of the adopting family for purposes of inheritance and devolution. Pa. Stat. (1920) § 8384. Mutual inheritance between parents and adopted children is also provided for "as fully as if the person adopted had been born a lawful child." Pa. Stat. (1920) § 8383. Disregarding the patent intention of the legislature to insure all rights of lawfully born children to those adopted, the court in the instant case follows the rule of strict construction it adopted in construing the previous revocation statute. *Goldstein* v. *Hammell* (1912) 236 Pa. St. 305, 84 Atl. 772. Under almost identical statutes the opposite and better considered result, from a standpoint of interpretation and public policy, was recently reached in Kansas. *Dreyer* v. *Schrick* (1919) 105 Kan. 495, 185 Pac. 30. Since the Pennsylvania statute makes the adopted child as much a member of the family for purposes of inheritance as a lawfully born child, even by strict interpretation it would seem that the adoption after the will should have the same revoking effect as the birth of a child.